

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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**In re: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE LITIGATION**

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) **MDL No. 1456**  
) **Master File No. 01-CV-12257-PBS**  
) **Subcategory Case No. 06-11337**  
)

**THIS DOCUMENT RELATES TO:**

)  
) **Hon. Patti B. Saris**  
)

*State of California ex rel. Ven-A-Care of the Florida  
Keys, Inc. v. Abbott Labs, Inc. et al.,*  
Civil Action No. 03-11226-PBS

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**DECLARATION OF SARAH L. REID IN SUPPORT OF DEY, L.P.  
AND DEY, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

**SARAH L. REID** declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a member of the law firm of Kelley Drye & Warren LLP, counsel to Dey L.P. and Dey, Inc. (collectively "Dey"). I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.
2. I make this Declaration in support of Dey's Motion for Partial Summary Judgment.
3. The basis for my knowledge is my review of the files maintained by Kelley Drye & Warren LLP as part of its representation of Dey, including the documents attached hereto, and my own personal knowledge of the facts and circumstances set forth herein.
4. Attached hereto as Exhibit 1 is a true and correct copy of Exhibit C to Plaintiffs' First Amended Complaint, filed on August 24, 2005 in this action.
5. Attached hereto as Exhibit 2 is a true and correct copy of a print-out from the U.S. Food and Drug Administration website entitled Drugs, *available at*  
<http://www.fda.gov/Drugs/InformationOnDrugs/ucm142438.htm>.

6. Attached hereto as Exhibit 3 is a true and correct copy of the expert report of Jeffrey J. Leitzinger, Ph.D., dated June 30, 2009.

7. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the deposition of Matthew Perri, III, taken on September 30, 2009 and excerpts from Exhibit 20 marked therein.

8. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the deposition of Dey, L.P. and Dey, Inc.'s 30(b)(6) designee, Pamela Marrs, taken on May 15, 2008.

9. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from the deposition of Dey L.P. and Dey, Inc.'s 30(b)(6) designee, Pamela Marrs, taken on July 10, 2008.

10. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the deposition of Robert Francis Mozak, taken on March 13, 2003.

11. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the deposition of Patricia Kay Morgan, taken on November 30, 2007.

12. Attached hereto as Exhibit 9 is a true and correct copy of the declaration of Professor W. David Bradford, Ph.D., dated November 25, 2009.

13. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the deposition of Russell Johnston, taken on December 10, 2008.

14. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the deposition of Russell Johnston, taken on December 11, 2008.

15. Attached hereto as Exhibit 12 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, Bates DL-0050107-113.

16. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from the deposition of Dey L.P. and Dey, Inc.'s 30(b)(6) designee, Pamela Marrs, taken on October 2, 2008.

17. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the deposition of Robert Francis Mozak, taken on April 30, 2002.

18. Attached hereto as Exhibit 15 is a true and correct copy of the OIG report entitled Medicare Payments for Nebulizer Drugs (OEI-03-94-00390), dated February 1996, previously marked as Exhibit Abbott 33.

19. Attached hereto as Exhibit 16 is a true and correct copy of the OIG report entitled A Comparison of Albuterol Sulfate Prices (OEI 03-94-00392), dated June 1996, Bates HHD014-035-253, previously marked as Exhibit Abbott 60.

20. Attached hereto as Exhibit 17 is a true and correct copy of the OIG report entitled Suppliers' Acquisition Costs for Albuterol Sulfate (OEI-03-94-00393), dated June 1996, Bates HHD014-0254-278, previously marked as Exhibit Abbott 30.

21. Attached hereto as Exhibit 18 is a true and correct copy of the OIG report entitled Excessive Medicare Payments for Prescription Drugs (OEI-03-97-00290), dated December 1997, Bates HHD014-0023-0050, previously marked as Exhibit Abbott 49.

22. Attached hereto as Exhibit 19 is a true and correct copy of the OIG report entitled Are Medicare Allowances for Albuterol Sulfate Reasonable? (OEI-03-97-00292), dated August 1998, previously marked as Exhibit Abbott 64.

23. Attached hereto as Exhibit 20 is a true and correct copy of the OIG report entitled Comparing Drug Reimbursement: Medicare and Department of Veterans Affairs (OEI-03-97-00293), dated November 1998, Bates HHD014-0051-70, previously marked as Exhibit Abbott 101.

24. Attached hereto as Exhibit 21 is a true and correct copy of the OIG report entitled Medicare Reimbursement of Albuterol (OEI-03-00-00311), dated June 2000, previously marked as Exhibit Dey 724.

25. Attached hereto as Exhibit 22 is a true and correct copy of the OIG report entitled Medicare Reimbursement of Prescription Drugs (OEI-03-00-00310), dated January 2001, previously marked as Exhibit Abbott 1005.

26. Attached hereto as Exhibit 23 is a true and correct copy of the OIG report entitled Excessive Medicare Reimbursement for Albuterol (OEI-03-01-00410), dated March 2002, previously marked as Exhibit Dey 726.

27. Attached hereto as Exhibit 24 is a true and correct copy of the OIG report entitled Update: Excessive Medicare Reimbursement for Albuterol (OEI-03-03-00510), dated January 2004, previously marked as Exhibit Dey 725.

28. Attached hereto as Exhibit 25 is a true and correct copy of the OIG report Excessive Medicare Reimbursement for Ipratropium Bromide (OEI-03-01-00411), dated March 2002, previously marked as Exhibit Dey 511.

29. Attached hereto as Exhibit 26 is a true and correct copy of the OIG report Update: Excessive Medicare Reimbursement for Ipratropium Bromide (OIG-03-03-00520), dated January 2004, previously marked as Exhibit Abbott 122.

30. Attached hereto as Exhibit 27 is a true and correct copy of excerpts from the deposition of J. Kevin Gorospe, taken on September 22, 2008.

31. Attached hereto as Exhibit 28 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 16, 1999, Bates DL-0050171.

32. Attached hereto as Exhibit 29 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 16, 1999, Bates DEY-MDL-0105073-76, previously marked as Exhibit 63 to the September 22, 2008 deposition of J. Kevin Gorospe.

33. Attached hereto as Exhibit 30 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated August 10, 1999, Bates DEY-LABS-0415389-99.

34. Attached hereto as Exhibit 31 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 28, 2000, Bates DEY-LABS-0415614.

35. Attached hereto as Exhibit 32 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, Bates DEY-MDL-0105083-94, previously marked as Exhibit 33 to the December 4, 2008 deposition of Leonard James Terra.

36. Attached hereto as Exhibit 33 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, Bates DEY-BO0018899-904.

37. Attached hereto as Exhibit 34 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated August 2, 2000, Bates DEY-LABS-0415537-43.

38. Attached hereto as Exhibit 35 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated January 2, 2001, Bates DEY-BO0018909-12.

39. Attached hereto as Exhibit 36 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated June 2001, Bates DEY-BO-0246811-12.

40. Attached hereto as Exhibit 37 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated October 2001, Bates DEY-BO-0254353.

41. Attached hereto as Exhibit 38 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated December 2001, Bates DEY-MDL-0105071-72.

42. Attached hereto as Exhibit 39 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated January 2002, Bates EDEY-BO-0053142-43.

43. Attached hereto as Exhibit 40 is a true and correct copy of excerpts from the deposition of Todd Galles, taken on March 1, 2006.

44. Attached hereto as Exhibit 41 is a true and correct copy of excerpts from a letter from Patrick E. Lupinetti to Pharmacy Director, Medi-Cal Benefits Branch, dated February 16, 2000, Bates CAAG/DHS0072502-67, previously marked as Exhibit 15 to the September 23, 2008 deposition of Douglas B. Hillblom.

45. Attached hereto as Exhibit 42 is a true and correct copy of the OIG report entitled Medicaid's Use of Revised Average Wholesale Prices (OEI-03-01-00010), dated September 2001, previously marked as Exhibit Abbott 95.

46. Attached hereto as Exhibit 43 is a true and correct copy of a memorandum from the California Department of Health Services to the California Governor's Office, Bates CAAG/DHS0076372-76, previously marked as Exhibit 19 to the September 23, 2008 deposition of Douglas B. Hillblom.

47. Attached hereto as Exhibit 44 is a true and correct copy of excerpts from the deposition of David Tawes, taken on April 25, 2007.

48. Attached hereto as Exhibit 45 is a true and correct copy of excerpts from a collection of Interview Sheets from a Medicaid Prescription Drug Pricing Survey, Bates HHD006-00225-524, previously marked as Exhibit Abbott 143.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 25, 2009.

/s/ Sarah L. Reid  
Sarah L. Reid

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on November 25, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Sarah L. Reid

Sarah L. Reid